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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: REQUEST FOR  
INTERNATIONAL JUDICIAL  
ASSISTANCE FROM THE 2ND  
CONSUMER COURT OF ANKARA,  
TURKEY IN MERT KARAMAN V.  
TURKCELL COMMUNICATION  
SERVICES

Case No. [23-mc-80250-JSC](#)

**ORDER RE: APPLICATION FOR  
ORDER PURSUANT TO 28 U.S.C. §  
1782**

Re: Dkt. No. 1

The 2nd Consumer Court of Ankara, Türkiye sent the United States Department of Justice a Letter of Request for judicial assistance to obtain evidence from Google, LLC in connection with a civil case. (Dkt. No. 2.<sup>1</sup>) Pending before the Court is the United States' ex parte application for an order pursuant to 28 U.S.C. § 1782 appointing Assistant United States Attorney ("AUSA") Adrienne Zack as Commissioner for the purpose of issuing a subpoena for the requested information. (*Id.*) For the reasons set forth below, the Court GRANTS the application.

**BACKGROUND**

The request arises from a consumer protection case in the 2nd Consumer Court of Ankara, Türkiye, Foreign Reference Number 2022/685, in which Plaintiff Mert Karama alleges his online accounts and crypto assets were stolen by intercepting SMS text messages serviced by Defendant Turkcell Communication. (Dkt. No. 3 ¶ 3; Dkt. No. 3-1 at 5.) The Turkish court sent a Letter of Request for judicial assistance to obtain evidence for this case from Google, LLC pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters ("Hague Evidence Convention"). (*Id.*) The request asks whether the password for Plaintiff Mert Karam's

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<sup>1</sup> Record Citations are to material in the Electronic Case File ("ECF"); pinpoint citations are to the ECF-generated page numbers at the top of the document.

1 accounts, [mertkrmn06@gmail.com](mailto:mertkrmn06@gmail.com) and [echoriath06@gmail.com](mailto:echoriath06@gmail.com), was changed and, if so, seeks  
2 “the information and documents related to this transaction, and all information and documents  
3 related to the IP records from which IP number the relevant accounts were accessed” between  
4 May 29, 2022 and June 1, 2022. (*Id.*; Dkt. No. 2 at 3.) Google requires a subpoena to provide the  
5 requested information. (Dkt. No. 3 ¶ 5.)

6 To execute this Letter of Request, the Government filed an ex parte application under 28  
7 U.S.C. § 1782 asking the Court for an order appointing AUSA Adrienne Zack as Commissioner  
8 for the purpose of issuing a subpoena. (Dkt. No. 2.) The Government provided a proposed  
9 subpoena ordering Google to provide the requested information, but limiting the scope to non-  
10 content information pursuant to the Stored Communications Act and instructing Google to provide  
11 information directly to the Turkish Embassy rather than the United States Attorney’s Office. (Dkt.  
12 No. 3 ¶¶ 4-7; Dkt. No. 4.) AUSA Zack notified Google of the request and Google does not object  
13 to the proposed order. (Dkt. No. 3 ¶ 8.)

14 **LEGAL STANDARD**

15 The Hague Evidence Convention “prescribes procedures by which a judicial authority in  
16 one contracting state may request evidence located in another” where such assistance is needed in  
17 civil or commercial judicial proceedings. *Société Nationale Industrielle Aerospatiale v. U.S. Dist.*  
18 *Court of the S. Dist. Of Iowa*, 482 U.S. 522, 524 (1987); see Hague Evidence Convention art. 1,  
19 Mar. 18, 1970, 23 U.S.T. 2555. Article 10 of the Hague Evidence Convention provides:

20 In executing a Letter of Request the requested authority shall apply  
21 the appropriate measures of compulsion in the instances and to the  
22 same extent as are provided by its internal law for the execution of  
orders issued by the authorities of its own country or of requests made  
by parties in internal proceedings.

23 Hague Evidence Convention, art. 10. Article 9 of the Convention provides “[t]he judicial  
24 authority which executes a Letter of Request shall apply its own law as to the methods and  
25 procedures to be followed.”

26 The Hague Evidence Convention is in force both in the United States and the Republic of  
27 Türkiye. See Status Table for the Convention of 18 March 1970 on the Taking of Evidence  
28 Abroad in Civil or Commercial Matters, available at

1 <https://www.hcch.net/en/instruments/conventions/status-table/?cid=82> (last visited November 14,  
2 2023). Under Article VI of the United States Constitution, treaties like the Hague Evidence  
3 Convention constitute the law of the land. U.S. Const. art. 6, cl. 2; *see Société Nationale*  
4 *Industrielle*, 482 U.S. at 533 (1987) (“[P]etitioners correctly assert that . . . the Hague Convention  
5 [is] the law of the United States.”)

6 The purpose of Section 1782 is “to provide federal-court assistance in gathering evidence  
7 for use in foreign tribunals.” *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 247  
8 (2004). When it comes to requests directly from foreign courts, district courts typically handle  
9 Section 1782 discovery requests in the context of an ex parte application for an order appointing a  
10 commissioner to collect the information. *In re Sungrove Co., Ltd.*, No. 22-MC-80225-JSC, 2022  
11 WL 4468275, at \*1 (N.D. Cal. Sept. 26, 2022); *see also In re Letters Rogatory from Tokyo Dist,*  
12 *Tokyo, Japan.*, 539 F.2d. 1216, 1219 (9th Cir. 1976) (“Letters Rogatory are customarily received,  
13 and appropriate action taken with respect thereto ex parte” as the witnesses can raise objections in  
14 motions to quash the subpoena after the court issues a Section 1782 order.)

15 **DISCUSSION**

16 This application satisfies the statutory requirements of Section 1782 and the discretionary  
17 factors set forth by the Supreme Court in *Intel* weigh in favor of granting the application. AUSA  
18 Zack may be appointed Commissioner to subpoena the requested information from Google.

19 **A. The Request Satisfies Section 1782(a) Statutory Requirements**

20 Federal district courts may order discovery for use in a foreign proceeding under Section  
21 1782 where three requirements are met: “(1) the person from whom the discovery is sought  
22 ‘resides or is found’ in the district of the district court where the application is made; (2) the  
23 discovery is ‘for use in a proceeding in a foreign or international tribunal’; and (3) the application  
24 is made by a foreign or international tribunal or ‘any interested person.’” *Khrapunov v.*  
25 *Prosyankin*, 931 F.3d 922, 925 (9th Cir. 2019) (quoting 28 U.S.C. §1782(a)).

26 Here, the Turkish court satisfies all three statutory requirements. First, Google “resides or  
27 is found in” the Northern District of California because Google is headquartered and has its  
28 principal place of business in Mountain View, California. (Dkt. No. 3-1 at 5); *see In re Med. Inc.*

1 *Ass'n Takeuchi Dental Clinic*, No. 5:22-MC-80200-EJD, 2022 WL 10177653, at \*2 (N.D. Cal.  
2 Oct. 17, 2022) (holding Google met residence requirement under Section 1782 because its  
3 headquarters and principal place of business is in Mountain View). Second, discovery is sought  
4 “for use in a foreign tribunal” since the information is sought in connection with a civil case,  
5 Foreign Reference Number 2022/685, pending in the Turkish court. The third requirement is also  
6 satisfied as the application is made by the 2nd Consumer Court of Ankara, Türkiye, a foreign  
7 tribunal. Accordingly, the Court is authorized to order discovery.

8 **B. Discretionary *Intel* Factors Weigh in Favor of Granting the Request**

9 Even if the statutory requirements are satisfied, a district court retains discretion to grant or  
10 deny a Section 1782 discovery application. *Intel*, 542 U.S. at 266 (“§ 1782(a) authorizes, but does  
11 not require, discovery assistance.”) A district court may exercise its discretion after considering:  
12 (1) whether the person from whom discovery is sought is a participant in the foreign proceeding,  
13 (2) the nature of the foreign tribunal, the character of the proceedings underway abroad, and the  
14 receptivity of the foreign government or the court or agency abroad to U.S. federal court judicial  
15 assistance, (3) whether the request conceals an attempt to circumvent foreign proof-gathering  
16 restrictions or other policies of a foreign country or the United States, and (4) whether the request  
17 is unduly intrusive or burdensome. *Id.* at 264-65. Here, all four factors weigh in favor of granting  
18 the request.

19 **1. Google, LLC Is Not a Participant in the Foreign Action**

20 The first factor considers whether the respondent is a participant in the foreign action since  
21 a “foreign tribunal has jurisdiction over those appearing before it and can itself order them to  
22 produce evidence,” but nonparticipants “may be outside the foreign tribunal’s jurisdictional reach;  
23 hence, their evidence, available in the United States, may be unobtainable absent § 1782(a) aid.”  
24 *Intel*, 542 U.S. at 264. Google is not a party or participant in the consumer protection action  
25 before the Turkish court. Thus, this factor weighs in favor of granting the application.

26 **2. The Turkish Court Is Receptive to U.S. Judicial Assistance**

27 In evaluating the second factor, Courts focus on “the utility of the evidence sought and  
28 whether the foreign tribunal is likely to receive the evidence.” *In re Ex Parte Application of*

1 *Qualcomm Inc.*, 162 F. Supp. 3d 1029, 1040 (N.D. Cal. 2016). Here, the 2nd Consumer Court of  
2 Ankara, Türkiye requests this information from Google in connection with a pending case. (Dkt.  
3 No. 3 ¶ 3.) Thus, the Turkish court will likely receive and consider the evidence.

4 **3. There Is No Circumvention of Foreign Discovery Procedures**

5 The third factor asks the court to consider whether the requester seeks to circumvent the  
6 foreign jurisdiction’s proof-gathering restrictions. *Intel*, 542 U.S. at 265. Here, the request comes  
7 from the 2nd Consumer Court of Ankara, Türkiye, which suggests the request is not an attempt to  
8 circumvent the Republic of Türkiye’s discovery rules. *See In re Letter Rogatory-Request for Int’l*  
9 *Jud. Assistance From the Harju Country Ct. in Estonia Petition of Lyoness Eesi OÜ*, No. 17-MC-  
10 80044-MEJ, 2017 WL 1436096, at \*3 (N.D. Cal. Apr. 24, 2017) (“Where a foreign court has  
11 requested the information there is a presumption that the application is not an attempt to  
12 circumvent foreign proof-gathering procedure.”) Since there is nothing to suggest the request  
13 seeks to circumvent any rules in the Republic of Türkiye, this factor weighs in favor of granting  
14 the request.

15 **4. Request Is Not Unduly Burdensome or Intrusive**

16 Finally, the discovery request does not appear unduly burdensome or intrusive. The  
17 subpoena seeks only non-content account and IP information for specific accounts for a short  
18 period of time for the purpose of adjudicating Plaintiff’s claim. (Dkt. No. 3 ¶ 3; Dkt. No. 3-1 at  
19 5.) Specifically, it asks whether the passwords for Plaintiff’s two Gmail accounts were changed  
20 and if so, seeks the IP numbers from which the accounts were accessed over four days between  
21 May 29 and June 1 of 2022. (*Id.*) Moreover, Google has indicated it is willingness to provide this  
22 information pursuant to the proposed subpoena. (Dkt. No. 3 ¶ 5, 8.) Because the request is  
23 narrowly tailored to the needs of the case and Google does not object to the proposed subpoena,  
24 this factor weighs in favor of granting the request.

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26 In sum, the four discretionary factors set forth by the Supreme Court in *Intel* favors  
27 authorizing judicial assistance to the Turkish court.

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